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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,842	04/27/2005	Susumu Kobayashi	4379-0177PUS1	4920
2292	7590	06/20/2007		
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER MEHTA, BHISMA	
			ART UNIT 3767	PAPER NUMBER
			NOTIFICATION DATE 06/20/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/532,842

Applicant(s)

KOBAYASHI, SUSUMU

Examiner

Bhisma Mehta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>04/27/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed August 29 2005 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered. If Applicant wants to have the English translation of the International Preliminary Search Report from WIPO considered, it is requested that this document be listed on an information disclosure statement. The Supplemental Information Disclosure Statement submitted on August 29 2005 does not have a PTO-SB08 form.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the distance measuring means, the capacity calculating means, the difference calculating means,

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and the registration means must be shown or the feature(s) canceled from the claim(s).

It appears that these features are shown in Figure 3 but are described in the specification as a distance calculation program, a capacity calculation program, a difference calculation program, and a registration program. If the distance measuring means, the capacity calculating means, the difference calculating means, and the registration means do correspond to the distance calculation program, the capacity calculation program, the difference calculation program, and the registration program, it is suggested that the specification be amended to indicate this so that there is consistency between the language in the claims and the language in the specification. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Crankshaw (U.S. Patent No. 5,034,004). Crankshaw discloses a syringe pump having a holding portion (5), plunger pressing means (7), control means, travel amount detecting means, distal end detecting means, distance measuring means (20), input means, storage means (23), and outside diameter detecting means (24). The control means is in the form of a drive system which includes a stepping motor (28), gears (53, 60), a drive head (61), and a frame (67) and engages the plunger pressing means to inject a chemical solution in a manner controlled by a central controlling system. In lines 3-18 of column 8, Crankshaw teaches an input means capable of inputting the capacity of a syringe. In lines 34-58 of column 5, Crankshaw teaches that the outside diameters of predetermined syringes of a plurality of kinds, and thus the capacity of the syringes may be stored. Crankshaw also teaches capacity calculating means for determining the capacity of the syringe based on inputted data of standard syringes. In line 49 of column 7 to line 18 of column 8, Crankshaw teaches the use of travel amount

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detecting means (25), distal end measuring means (9), and distance measuring means (20) for measuring the travel distance of the plunger. In line 63 of column 8 to line 10 of column 9, Crankshaw teaches a difference calculating means for calculating a difference between a calculated capacity and an inputted capacity. In lines 10-18 of column 8, Crankshaw teaches registration means which accept storage of syringe data such as the capacity of the syringe input by the input means. In line 47 of column 7 to line 18 of column 8, Crankshaw discloses that if the difference between a calculated capacity and an inputted capacity is not within a predetermined range, the programming or recalibration of a non-standard syringe will be required. After this is done, the capacity of the syringe is inputted and if the difference between a calculated capacity and the inputted capacity is within a predetermined range, the registration means will accept storage of the capacity of this syringe. This is accomplished due to the registration means accepting storage of the diameter of this syringe which further allows the registration means to display and store the capacity of the syringe (lines 44-54 of column 5).

Response to Arguments

5. Applicant's arguments filed March 22 2007 have been fully considered but they are not persuasive. The registration means of Crankshaw is capable of accepting storage of the capacity of the syringe input by the input means as it accepts storage of the diameter of the syringe which is used to calculate the capacity of the syringe.

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There is independent verification of the capacity of the syringe input by the user within a predetermined range as disclosed in lines 6-10 of column 9.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bhisma Mehta whose telephone number is 571-272-3383. The examiner can normally be reached on Monday through Friday, 7:30 am to 3:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on 571-272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



BM

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

